

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

NOV 18 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

MONTANA ENVIRONMENTAL  
INFORMATION CENTER; WILDEARTH  
GUARDIANS,

Plaintiffs-Appellees,

v.

DEBRA ANNE HAALAND, in her official  
capacity of Secretary of the Interior; et al.,

Defendants,

and

SPRING CREEK COAL COMPANY LLC;  
NAVAJO TRANSITIONAL ENERGY  
COMPANY,

Intervenor-Defendants-  
Appellants.

No. 21-35262

D.C. No. 1:17-cv-00080-SPW  
District of Montana, Billings

ORDER

Before: W. FLETCHER, RAWLINSON, and BYBEE, Circuit Judges.

Appellees' motion to dismiss this appeal for lack of jurisdiction (Docket Entry No. 15) is granted because the district court's remand order is not final as to appellants. *See* 28 U.S.C. § 1291; *Alsea Valley All. v. Dep't of Com.*, 358 F.3d 1181, 1184-85 (9th Cir. 2004) ("[W]e will not exercise our jurisdiction over a remand order unless 'a holding of nonappealability would effectively deprive the litigants of an opportunity to obtain review.'" (citation omitted)). Appellants'

positions may be considered in the remand proceedings, which may provide appellants with all the relief they seek. *See Alsea Valley*, 358 F.3d at 1185.

Because the opportunity to obtain appellate review is not foreclosed in the absence of an immediate appeal, we dismiss this appeal for lack of jurisdiction.

**DISMISSED.**